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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,618	10/26/2001	Steven O. Markel	INTE.20USU1 (ITC18)	4807

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EXAMINER	
SHELEHEDA, JAMES R	

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/046,618	MARKEL ET AL.	
	Examiner	Art Unit	
	James Sheleheda	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 July 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) *8-12* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7 and 13-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (Zigmond) (6,692,020) (of record) in view of Bedard (5,801,747).

As to claim 1, Zigmond discloses a method of selecting and displaying a video segment to a viewer (column 6, lines 4-12) comprising:

transmitting a plurality of video segments (advertisements) from a broadcast center to a viewer (Fig. 6, steps 100-106; column 16, lines 44-56);

displaying said video segments to said viewer (column 7, lines 26-36);

sensing viewer reaction input to said displayed video segments from said viewer (Fig. 6, step 118; column 9, lines 23-30, column 11, lines 13-30 and column 13, lines 7-27) through at least one sensor (monitoring inherently involves a sensor for detecting or measuring the viewer actions; column 9, lines 23-30);

transmitting said input to a remote computer (column 9, lines 45-52);

analyzing said input to generate affinity data (wherein all user data is combined to find ad parameters corresponding to the viewer; column 9, lines 52-55 and column 11, lines 31-49);

selecting a specific video signal based on said affinity data (wherein an ad is found best matching the viewer; Fig. 6, step 110; column 11, lines 42-49); and

displaying said specific video signal to said viewer (Fig. 6, step 116; column 17, lines 27-31). While Zigmond discloses sensing viewer input (Fig. 6, step 118; column 9, lines 23-30, column 11, lines 13-30 and column 13, lines 7-27), he fails to specifically disclose sensing viewer input during a sampling period based on a start trigger and a stop trigger.

In an analogous art, Bedard discloses a television receiver (column 3, lines 4-15) which monitors user actions to build a user profile (column 3, lines 33-56) wherein the monitoring occurs during a sampling period (viewer collection period; column 4, lines 38-48) based on a start trigger and a stop trigger (indicating the system is to start and stop collecting information for the current profile; column 4, lines 38-48) for the typical benefit of allowing the system to easily account for new users or account for rapid changes in viewer preferences (column 4, lines 40-48).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond's system to include sensing viewer input during a sampling period based on a start trigger and a stop trigger, as taught by Bedard, for the typical benefit of allowing the system to easily account for new users or account for rapid changes in viewer preferences.

As to claim 2, Zigmond and Bedard disclose wherein said sensor comprises at least one button pressed by a viewer (wherein viewer channel changes, requests and

feedback would inherently involve pressing a button; see Zigmond at column 9, lines 23-30).

3. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Bedard and Alexander et al. (Alexander) (6,177,931) (of record).

As to claim 4, Zigmond discloses a method of collecting affinity data (column 9, lines 21-30) comprising:

transmitting a plurality of video segments (advertisements) from a broadcast center to a viewer (Fig. 6, steps 100-106; column 16, lines 44-56);

displaying said video segments to said viewer (column 7, lines 26-36);

sensing viewer reaction input to said displayed video segments from said viewer (Fig. 6, step 118; column 9, lines 23-30, column 11, lines 13-30 and column 13, lines 7-27) through at least one sensor (monitoring inherently involves a sensor; column 9, lines 23-30);

analyzing said input to generate affinity data (wherein all user data is combined to find ad parameters corresponding to the viewer; column 9, lines 52-55 and column 11, lines 31-49);

selecting a specific video signal based on said affinity data (wherein an ad is found best matching the viewer; Fig. 6, step 110; column 11, lines 42-49); and

displaying said specific video signal to said viewer (Fig. 6, step 116; column 17, lines 27-31).

While Zigmond discloses sensing viewer input and analyzing said input to generate affinity data, he fails to specifically disclose sensing viewer input during a

sampling period based on a start trigger and a stop trigger and transmitting the affinity data to a remote computer.

In an analogous art, Bedard discloses a television receiver (column 3, lines 4-15) which monitors user actions to build a user profile (column 3, lines 33-56) wherein the monitoring occurs during a sampling period (viewer collection period; column 4, lines 38-48) based on a start trigger and a stop trigger (indicating the system is to start and stop collecting information for the current profile; column 4, lines 38-48) for the typical benefit of allowing the system to easily account for new users or account for rapid changes in viewer preferences (column 4, lines 40-48).

Additionally, in an analogous art, Alexander discloses a system wherein an EPG will monitor and record all user interactions during television programming (column 28, lines 30-44), analyze the viewer information to create a profile (column 29, lines 14-30) and report the profile (or affinity data) to a headend or advertiser (column 33, lines 9-15) for the typical benefit of providing the data to advertisers for statistical analysis, customized marketing, narrowcasting opportunities and to determine program requirements (column 33, lines 9-15).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond's system to include sensing viewer input during a sampling period based on a start trigger and a stop trigger, as taught by Bedard, for the typical benefit of allowing the system to easily account for new users or account for rapid changes in viewer preferences.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond and Bedard's system to include transmitting the affinity data to a remote computer, as taught by Alexander, for the typical benefit of providing the data to advertisers for statistical analysis, customized marketing, narrowcasting opportunities and to determine program requirements.

As to claim 5, Zigmond, Bedard and Alexander disclose wherein said sensor comprises at least one button pressed by a viewer (wherein viewer channel changes, requests and feedback would inherently involve pressing a button; see Zigmond at column 9, lines 23-30).

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond in view of Bedard and Shah-Nazaroff (6,317,881) (of record).

As to claim 13, Zigmond discloses a method of providing broadcast content viewing information (column 9, lines 21-30) comprising:

transmitting a start trigger (column 8, lines 33-54);

receiving responses to said presentation of said broadcast content from said viewers (column 3, lines 32-47);

analyzing said responses received from said viewers (wherein all user data is combined to find ad parameters corresponding to the viewer; column 9, lines 52-55 and column 11, lines 31-49); and

generating affinity data from said analysis (wherein all user data is combined to find ad parameters corresponding to the viewer; column 9, lines 52-55 and column 11, lines 31-49).

While Zigmond discloses sensing viewer input and providing broadcast content viewing information, he fails to specifically disclose sensing viewer input during a sampling period based on a start trigger and a stop trigger and implementing an award method wherein viewers are awarded a value for responding to events associated with presentation of said broadcast content.

In an analogous art, Bedard discloses a television receiver (column 3, lines 4-15) which monitors user actions to build a user profile (column 3, lines 33-56) wherein the monitoring occurs during a sampling period (viewer collection period; column 4, lines 38-48) based on a start trigger and a stop trigger (indicating the system is to start and stop collecting information for the current profile; column 4, lines 38-48) for the typical benefit of allowing the system to easily account for new users or account for rapid changes in viewer preferences (column 4, lines 40-48).

Additionally, in an analogous art, Shah-Nazaroff discloses a broadcast system (Fig. 1) implementing an award method (column 3, lines 33-40) wherein viewers are awarded a value for responding to events associated with presentation of said broadcast content (column 3, lines 33-47) for the benefit of encouraging more user feedback (column 3, lines 33-36).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond's system to include sensing viewer input

during a sampling period based on a start trigger and a stop trigger, as taught by Bedard, for the typical benefit of allowing the system to easily account for new users or account for rapid changes in viewer preferences.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond and Bedard's system to include an award method wherein viewers are awarded a value for responding to events associated with presentation of said broadcast content, as taught by Shah-Nazaroff, for the typical benefit of encouraging more user feedback from broadcast television viewers.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond and Bedard as applied to claim 1 above, and further in view of Hite (6,002,393) (of record).

As to claim 3, while Zigmond and Bedard disclose the selecting of a video signal during a broadcast based upon affinity data, they fail to specifically disclose the selection of a video signal during a live broadcast.

In an analogous art, Hite discloses a cable receiver (Fig. 5) wherein a specific commercial segment is selected for insertion during live broadcasts (column 13, lines 7-18) based upon compiled user statistics (column 7, lines 7–35) for the typical benefit of allowing the display of targeted video during sports contests and other live events (column 13, lines 7-18).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond and Bedard's system to include the selecting of a video segment during a live broadcast, as taught by Hite, for the typical benefit of allowing a user's affinity for a specific video to be used to display a targeted video during sports contests and other live events.

6. Claims 14, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond and Bedard as applied to claim 1 above, and further in view of Scarampi (4,931,865) (of record).

As to claim 14, while Zigmond and Bedard disclose a sensor, they fail to specifically disclose wherein said sensor is a biometric sensor.

In an analogous art, Scarampi discloses a system (Fig.1) for monitoring a television viewer (column 2, lines 26-35) wherein eye position, pupil dilation and other biofeedback variables are monitored (column 5, lines 62-68 and column 6, lines 1-3) using audio (sound; column 6, lines 48-53) for the benefit of indicating information on a viewer's degree of interest in and emotional response to programming (column 6, lines 1-3).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond and Bedard's system to include wherein said sensor is a biometric sensor, as taught by Scarampi, for the benefit of providing information on a viewer's degree of interest in and emotional response to programming.

As to claim 16, while Zigmond and Bedard disclose a sensor, they fail to specifically disclose wherein said sensor is an audio sensor.

In an analogous art, Scarampi discloses a system (Fig.1) for monitoring a television viewer (column 2, lines 26-35) wherein eye position, pupil dilation and other biofeedback variables are monitored (column 5, lines 62-68 and column 6, lines 1-3) using audio (sound; column 6, lines 48-53) for the benefit of indicating information on a viewer's degree of interest in and emotional response to programming (column 6, lines 1-3).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond and Bedard's system to include wherein said sensor is a audio sensor, as taught by Scarampi, for the benefit of providing information on a viewer's degree of interest in and emotional response to programming.

As to claim 18, while Zigmond and Bedard disclose a sensor, they fail to specifically disclose wherein said sensor is an infrared sensor.

In an analogous art, Scarampi discloses a system (Fig.1) for monitoring a television viewer (column 2, lines 26-35) wherein eye position, pupil dilation and other biofeedback variables are monitored (column 5, lines 62-68 and column 6, lines 1-3) using infrared (infrared range light; column 6, lines 48-53) for the benefit of indicating information on a viewer's degree of interest in and emotional response to programming (column 6, lines 1-3).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond and Bedard's system to include wherein said sensor is a infrared sensor, as taught by Scarampi, for the benefit of providing information on a viewer's degree of interest in and emotional response to programming.

7. Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond and Bedard as applied to claim 1 above, and further in view of Lu et al. (Lu) (5,771,307) (of record).

As to claim 15, while Zigmond and Bedard disclose a sensor, they fail to specifically disclose wherein said sensor is a motion sensor.

In an analogous art, Lu discloses a system (Fig.3) for monitoring a television viewer (column 3, lines 28-43) wherein a motion sensor is used to monitor people in the viewing area (column 8, lines 59-62) for the benefit of identifying the number of and identify of television viewers (column 8, lines 59-62 and column 19, lines 55-59).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond and Bedard's system to include wherein said sensor is a motion sensor, as taught by Lu, for the benefit of identifying the number of and identity of viewers in a broadcast television system.

As to claim 17, while Zigmond and Bedard disclose a sensor, they fail to specifically disclose wherein said sensor is a video sensor.

In an analogous art, Lu discloses a system (Fig.3) for monitoring a television viewer (column 3, lines 28-43) wherein video cameras capture images of a viewing area (column 9, lines 30-35) which are used for facial recognition (column 9, lines 59-67) for the benefit of enabling television viewers to be identified using video images.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond and Bedard's system to include wherein said sensor is a video sensor, as taught by Lu, for the benefit of enabling a system to identify broadcast television viewers through the use of video images.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond, Bedard and Alexander as applied to claim 4 above, and further in view of Hite.

As to claim 6, while Zigmond, Bedard and Alexander disclose the selecting of a video signal during a broadcast based upon affinity data, they fail to specifically disclose the selection of a video signal during a live broadcast.

In an analogous art, Hite discloses a cable receiver (Fig. 5) wherein a specific commercial segment is selected for insertion during live broadcasts (column 13, lines 7-18) based upon compiled user statistics (column 7, lines 7–35) for the typical benefit of allowing the display of targeted video during sports contests and other live events (column 13, lines 7-18).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond, Bedard and Alexander's system to include the selecting of a video segment during a live broadcast, as taught by Hite, for the

typical benefit of allowing a user's affinity for a specific video to be used to display a targeted video during sports contests and other live events.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond and Bedard as applied to claim 1 above, and further in view of Henderson et al. (Henderson) (5,603,078) (of record).

As to claim 19, while Zigmond and Bedard disclose a sensor (sensing user channel changes; column 9, lines 26-30), they fail to specifically disclose wherein said sensor is a keypad.

In an analogous art, Henderson discloses a video system (Fig. 1; column 4, lines 31-42) wherein user inputs (such as channel change commands) are entered via a keypad (column 5, lines 22-30) for the typical benefit of utilizing a well-known keypad device to allow a user to enter commands (column 5, lines 22-30).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond and Bedard's system to include wherein said sensor is a keypad, as taught by Henderson, for the typical benefit of utilizing a well-known keypad device for the entry of a television viewers input.

Response to Arguments

10. Applicant's arguments with respect to claims 1-7 and 13-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (571) 272-7357. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda
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Art Unit 2617

JS

VIVEK SRIVASTAVA
PRIMARY EXAMINER